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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

BRUCE DAVID FAUX,

Defendant and Appellant.

F063972

(Super. Ct. No. MCR039584)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Madera County. Mitchell C. Rigby, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Wiseman, Acting P.J., Franson, J. and Peña, J.

STATEMENT OF THE CASE

On December 15, 2010, appellant, Bruce David Faux, was charged in a first amended complaint with murder (Pen. Code, § 187, subd. (a), count 1),¹ gross vehicular manslaughter while driving under the influence of alcohol (§ 191.5, subd. (a), count 2), driving under the influence of alcohol with a prior conviction for the same offense (Veh. Code, § 23153, subd. (a), count 3), and driving with a blood alcohol level of .08 percent or greater with a prior conviction for being under the influence of alcohol while driving (Veh. Code, § 23153, subd. (b), count 4). There were also two great bodily injury enhancements alleged pursuant to section 12022.7, subdivision (a) and a multiple victim bodily injury allegation pursuant to Vehicle Code section 23558.

On August 19, 2011, appellant entered into a plea agreement in which he would admit counts 2 and 3, as well as one great bodily injury allegation. In exchange for appellant's plea, he would receive a stipulated sentence of 13 years 8 months and the remaining allegations would be dismissed.² The court determined from appellant that he had initialed and executed a felony advisement of rights and change of plea form, that he had discussed his rights with his counsel, and that he understood his rights. The court advised appellant of, and appellant waived, his *Miranda*³ rights.

The trial court advised appellant of the consequences of his plea and the parties stipulated to a factual basis for the plea based on the highway patrol report. Appellant pled no contest to counts 2 and 3 and admitted one great bodily injury enhancement. On September 30, 2011, the trial court sentenced appellant to prison for the previously stipulated term of 13 years 8 months. The court granted total custody credits of 336 days

¹ All statutory references are to the Penal Code unless otherwise indicated.

² Appellant would receive consecutive sentences of 10 years on count 2, eight months on count 3, and three years for the great bodily injury enhancement.

³ *Miranda v. Arizona* (1966) 384 U.S. 436.

and imposed various fines and fees. Appellant filed a timely notice of appeal but did not obtain a certificate of probable cause.

FACTS

At 1:20 a.m. on December 12, 2010, California Highway Patrol Officer Omar Godinez was dispatched to a traffic collision on Highway 41 at Avenue 15 in Madera County. Appellant was driving a van and attempted to pass slow moving traffic in the fog. Appellant was intoxicated with a blood alcohol content of .11 percent. Appellant hit a motorcycle, killing Eddie Johnson and injuring Darleen Tucker. Tucker suffered an amputated left leg, fractured left arm and hand, multiple spine fractures and her left hip was removed. Appellant was granted misdemeanor probation in 2008 and 2009 for separate convictions for driving a vehicle while under the influence.

APPELLATE COURT REVIEW

Appellant's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that appellant was advised he could file his own brief with this court. By letter on April 11, 2012, we invited appellant to submit additional briefing. To date, he has not done so.

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.